

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the City of Petaluma, a Municipal Corporation, for an Order Authorizing the Relocation of One At-Grade Crossing of the Tracks of the Sonoma Marin Area Rail Transit District in the City of Petaluma, County of Sonoma.

Application 04-06-030
(Filed June 21, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING
REQUESTING FURTHER BRIEFING AND SETTING
A PREHEARING CONFERENCE**

Prehearing Conference (PHC)

To more fully address the issue discussed below, a prehearing conference will be held at 10:00 a.m. on Monday, August 29, 2005, in the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California.

Further Briefing Due By August 22, 2005

A March 14, 2005 ruling reopened the record to take additional written testimony concerning environmental issues. In a June 10, 2005 email to the parties, I stated that my current plan was to set the re-submission date for May 23, 2005, the day the last pleadings related to the March 14 ruling were filed. I stated that I would confirm this by written ruling, and that the substantive issues and outstanding motions raised by the filings would be addressed either in the draft decision or by subsequent ruling.

This ruling advises the parties that I need further information before setting a new submission date. This new information also refers to environmental issues as more fully set forth below.

Applicant Petaluma filed an April 29, 2005 pleading responding to protestant Transportation Solutions Defense and Education Fund's (TRANSDEF) reply to applicant's supplemental testimony served in response to the March 14 ruling. Applicant stated that under the California Environmental Quality Act's (CEQA) cumulative analysis, implementation of rail service in by the Sonoma-Marin Area Rail Transit District (SMART) in Sonoma County is not a "project" for a cumulative analysis. Applicant so reasoned because CEQA permits a lead agency to evaluate cumulative impacts based upon a list of past, present, and probable future projects producing related impacts. Applicant further stated that a project that is under environmental review under either federal or state law is a probable future project which must be considered in connection with the project under review.

In response to this filing, TRANSDEF made a motion requesting the Commission take official notice of, inter alia, a notice of intent for the Environmental Impact Statement studying the resumption of passenger train service by SMART. The notice is not dated but sets future meetings for November 2002; presumably it was sent before November 2002. TRANSDEF has also requested that official notice be taken of the notice of intent to prepare an alternatives analysis and draft environmental impact statement published in the Federal Register on August 22, 2003. Applicant responded to this motion with, among other things, a statement that the documents are so old that they raise questions about whether any actions were taken in connection with them.

Applicant stated that it is unaware of any draft or final environmental impact report (EIR) having been circulated or adopted by SMART.

I have asked Commission staff to independently ascertain the status of any SMART draft or final EIR regarding the resumption of passenger rail service in the Sonoma County corridor. I am informed that SMART is preparing a draft EIR which is due to be circulated at the end of August 2005.

I request both parties to brief the following issues:

1. How does this new information affect the adequacy of the current environmental review for the Commission to take the discretionary action requested by this application? Among other things, the parties should address whether, in light of the SMART EIR regarding the resumption of passenger rail service, it is incumbent upon Petaluma, as the lead agency, to undertake supplemental environmental review of the Central Petaluma Specific Plan with respect to the Caulfield Lane crossing, and to submit findings related to that review. If not, what consideration should be given to the SMART EIR for purposes of this application?
2. The parties should address the schedule for this application. In light of the parties' response to question 1, state how the Commission may resolve this application within 18 months of the issuance of the scoping memo, pursuant to Pub. Util. Code § 1701.5.

The parties shall file simultaneous briefs on the above issues no later than Monday, August 22, 2005.

IT IS RULED that:

1. Further information is required before this matter can be submitted.
2. The parties shall file simultaneous briefs on the issues set forth in this ruling no later than Monday, August 22, 2005.

3. A prehearing conference is scheduled for Monday, August 29, 2005 at 10:00 a.m. in the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California.

Dated August 10, 2005, at San Francisco, California.

/s/ JANET A. ECONOME

Janet A. Econome
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties for whom an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Requesting Further Briefing and Setting a Prehearing Conference on all parties of record in this proceeding or their attorneys of record.

Dated August 10, 2005, at San Francisco, California.

/s/ ERLINDA PULMANO

Erlinda Pulmano

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.